

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL MCKNIGHT

Plaintiff,

- against -

COMPLEX MEDIA, INC.

Defendant.

Docket No. 17-cv-6405

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Daniel McKnight (“McKnight” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Complex Media, Inc. (“Complex” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of three copyrighted photographs of Kanye West fans outside of Webster Hall owned and registered by McKnight, a New York based professional photographer. Accordingly, McKnight seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b).

PARTIES

5. McKnight is a professional photographer in the business of licensing her photographs to online and print outlets for a fee having a usual place of business at 329 3rd Avenue, Apt. 36, New York, New York 10010.

6. Upon information and belief, Complex is a foreign business corporation organized and existing under the laws of the State of Delaware, with a place of business at 1271 Avenue of the Americas, New York, New York 10020. Upon information and belief, Complex is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Complex has owned and operated a website at the URL: www.PigeonsandPlanes.com (the "Website")

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

7. McKnight photographed Kanye West fans outside of Webster Hall (the "Photographs"). A true and correct copy of the Photographs is attached hereto as Exhibit A.

8. McKnight is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs are registered with the United States Copyright office and was given registration number VA 2-027-523.

B. Defendant's Infringing Activities

10. On June 6, 2016, Complex ran an article on the Website entitled *East Village Resident Says Kanye West Fans Destroyed His Car*. See <http://pigeonsandplanes.com/news/2016/06/kanye-west-east-village>. The article prominently featured the Photographs. Screen shot of the Photographs on the article is attached hereto as Exhibit B.

11. The Photographs appears on Complex's computer servers.
12. Complex did not license the Photographs from Plaintiff for its article, nor did Complex have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST COMPLEX)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.
14. Complex infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Complex is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.
15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.
16. Upon information and belief, the foregoing acts of infringement by Complex have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Complex be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
August 22, 2017

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